Newfield's Greater Monument Butte Unit (GMBU) In-fill Oil and Gas Project, Uintah and Duchesne Counties, Utah

GMBU EIS Project Highlights

- Oil and gas operations in GMBU have been occurring for the last 60 years; over 3,000 wells drilled
- Project Area possesses no wilderness characteristics, sage-grouse, or sensitive wildlife species
- Impacts of oil and gas development in GMBU were previously analyzed and approved in the *Castle Peak Eightmile Flat ROD and EIS* (2005)
- Current EIS analyzes a proposed infill drilling program for 5,750 wells (3,250 oil and 2,500 gas)
  - Proposal minimizes surface disturbance by drilling 87% of new wells from existing pads
  - Water conservation through state of the art water recycling facilities that conserve fresh water
    - 3.5 million barrels of produced water recycled to date
    - 98% of produced water is recycled
  - Utilization of state of the art Gas and Oil Separation Plants that reduce air quality emissions and reduce truck traffic and associated fugitive dust

EPA Engagement; Legal and Policy Issues Raised by EPA's Last Minute Demands

- Scoping began in 2010. BLM published a DEIS in 2013 for public review and comment.
- BLM and Newfield engaged EPA extensively on air quality over the past five years regarding air quality modeling and mitigation measures for the EIS. BLM, Newfield and EPA reached agreement on a path forward during the Draft EIS for both modeling parameters and mitigation measures, which are all reflected in the Final EIS.
- As required by the MOU, the lead agency – BLM in this case – identified reasonable mitigation and control measures, evaluated those measures to eliminate or reduce adverse impacts to air quality, and then determined the appropriate mitigation and control measures.
- In a break from precedent, after preparation of the FEIS , EPA made additional demands for air emission restrictions. In another break from precedent, EPA is insisting on additional controls for new and existing sources that have already undergone NEPA analysis and been permitted and constructed.
- BLM staff ha s tried to find a way to compromise and address EPA's concerns even though EPA's comments came after finalization of the FEIS. However, EPA is overreaching its NEPA authority in demanding additional controls on existing sources outside the scope of the proposed action . And BLM lacks the authority to regulate air quality.
- EPA Authority. The Unita Basin may, at some future date, be designated as nonattainment for ozone. At that time, under the Clean Air Act, EPA has a statutorily prescribed process for addressing air quality – starting with an emissions inventory and culminating in the development of control measures that would apply to all existing sources – creating a level playing field – as well as new

sources.

- For Newfield's GMBU project, EPA is trying to shortcut around that statutory process, and create *de facto* regulatory requirements through the NEPA process rather than pursuant to the Clean Air Act . It has no authority to do so.

- NEPA is not a source of regulatory authority – even though EPA is trying to use it that way. The NEPA MOU is consistent with pre-existing and existing law – EPA can make recommendations on mitigation, but it doesn't grant BLM (or EPA) any new legal or statutory authority. The action agency is still the decision-maker.

- BLM has no air quality regulatory authority . It can work with the applicant to develop mitigation measures for the proposed action, and routinely requires the applicant to comply with state and federal environmental laws. Implementing the BLM-EPA compromise would commit BLM to taking major air quality regulations for which it lacks authority and resources.
    - EPA has provided no analysis of the emissions reductions their "compromise" would generate, or whether those emissions reductions would translate into improved air quality.
    - BLM's administrative record lacks any basis or explanation for these new emissions reduction requirements.
    - Despite the significant policy and legal issues presented, the compromise discussed between BLM and EPA staff was done in a vacuum without senior management or legal involvement.
    - The proposed "compromise" between EPA and BLM would create a "cap" on total emissions and would put BLM in the position of monitoring emissions and certifying that the applicant has adopted emissions controls on existing sources to offset any new

emissions. While EPA can adopt a cap and require offsets in some nonattainment areas – once an area is designated as nonattainment (which is not the case here) – BLM does not have the authority to step into EPA's shoes and begin regulating air quality with some kind of cap on total emissions. Nor does BLM have the staff, budget, or resources needed to administer such a massive air program.

- This would set a major new precedent with broad implications for BLM management of natural resources, with EPA effectively dictating BLM actions through the use of NEPA. EPA inevitably will expect the same kind of result for BLM actions in other areas with air quality issues, even where that may conflict with state air quality programs (as it does here) . The result will be confusion and redundant regulation.
- The BLM-EPA "compromise" would impose new resource demands on the agency at a time of significant resource constraints.
- The "compromise" raises a host of unanswered questions that poses legal and business risks for the company, and also legal risks for BLM . E.g., would operators get "credit" for their emissions reductions that could be used if the area is designated nonattainment? Would the cap continue to apply if the area is designated nonattainment and a SIP/FIP is developed? Would the mitigation requirements continue to apply when EPA finalizes its new regulations for the oil and gas sector, and if so, is compliance with both even possible? Would these new requirements apply even if the area is not designated nonattainment?